

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

NEIL GIFFORD LONG,

Plaintiff,

v.

**CIVIL ACTION NO. 2:14-CV-10
(BAILEY)**

**DR. DIIONISIO ENRIQUE POLICARPIO,
MD, RALPH E. PRICE, HSA MEDICAL
ADMINISTRATOR, PATRICK MIRANDY,
Warden of St. Mary's Correctional Center,
JIM RUBENSTEIN, Commissioner of WV
Division of Corrections,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. 17]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R&R on December 10, 2014, wherein he recommends this Court dismiss the plaintiff's § 1983 claims against defendants Mirandy and Rubenstein and allow the claims against defendants Policarpio and Price proceed.

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or

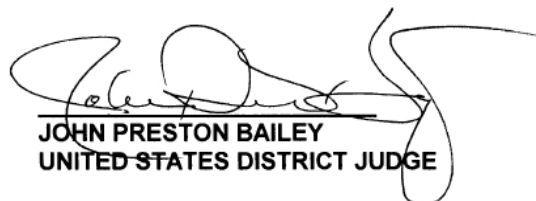
recommendation to which no objections are addressed. **Thomas v. Arn**, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on December 13, 2014 [Doc. 18]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 17]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** that the plaintiff's § 1983 claims **[Doc. 1]** against defendants Mirandy and Rubenstein be **DENIED** and **DISMISSED WITH PREJUDICE** and the plaintiff's claims against defendants Dr. Policarpio and Ralph Price shall **PROCEED**. This Court further **DIRECTS** the United States Marshals Service to **SERVE** defendants Policarpio and Price with a copy of the summons and Complaint.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record, the United States Marshals Service, and to mail a copy to the *pro se* plaintiff.

DATED: January 5, 2015.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE